

MINUTES OF BENTON COUNTY QUORUM COURT

September 22, 2011

A regular meeting of the Benton County Quorum Court was held on Thursday, September 22, 2011 at 6:00 p.m. at the Benton County Administration Building, 215 East Central Avenue, Bentonville, Arkansas, pursuant to proper call and notice.

County Judge Robert D. Clinard called the meeting to order.

Deputy Clerk Betsy Harrell called roll as follows:

12 JPs Present: King, Winscott, J. Harrison, Allen, K. Harrison, Hawkins, Jones,
Douglas, Blaty, Curry, Carr, Moore
1 Absent: Sandlin

A legal quorum was present.

The presiding officer led the pledge of allegiance to the flag. Pastor Twila Farish of Word of Life Fellowship led the prayer.

CHANGES TO THE AGENDA:

None

MINUTES:

JP Winscott made motion to approve the minutes of the August 25, 2011 Quorum Court meeting, seconded by JP Douglas.

Motion passed by unanimous voice vote.

ELECTED OFFICIALS' REPORTS:

County Clerk Tena O'Brien reported that two elections have been held and that a run-off election will be held October 11, 2011 for the Bentonville and Gentry school elections. She stated that a State Highway Bond election and a Special Election for the City of Lowell will be held on November 8, 2011.

COUNTY JUDGE'S REPORT:

County Judge Bob Clinard stated that volunteers are needed to staff the countywide clean-up, and anyone wishing to volunteer should contact Environmental Planning Director Teresa Sidwell, or his Executive Secretary Rosemary Goines. County Judge Bob Clinard reported that: 1) Benton County West Road Facility construction is underway and progressing on schedule; 2) The Juvenile Justice Center construction is halfway completed with no major issues, and the

facility will be finished sometime in January 2012; 3) The Public Service Building renovation is underway and progressing, the asbestos abatement is complete, and the re-roofing will begin next week; 4) The Benton Countywide clean-up will be October 1, 2011 from 8:00 a.m. to 2:00 p.m. at the Benton County Road Department on Hwy 102 and the Garfield Road facility on Wimpy Jones Road.

Presentation: Watershed – Northwest Arkansas Council – Mike Malone – TMDL Water Limits

Mike Malone of the Northwest Arkansas Council stated that the council is a private, non-profit organization that tries to advocate regional solutions to challenges that are being faced by Northwest Arkansas. He stated that water quality standards which are set by the State of Oklahoma, and the rules and regulations set by the Environmental Protection Agency (EPA) are going to impact the quality of life, the ability to do business, and the ability to live and work in Northwest Arkansas. He added that an intergovernmental, interagency team has been formed to oversee all that Oklahoma and the EPA does.

Mike Malone introduced Rob Smith of the Northwest Arkansas Council, who presented a power point presentation with information of the Illinois River Watershed and the coordinated efforts of the surrounding area cities. He stated that their concern is that the phosphorous level limit of .037 ppm being proposed by Oklahoma is unattainable.

JP Douglas stated that the EPA is looking at changing the discharge permits for cities from 1.0 ppm of phosphorus to .1 ppm and that would cost the cities millions of dollars. He stated this will be a regional effort because this affects everyone in the Northwest Arkansas region.

Discussion was held on the phosphorus levels set by the Environmental Protection Agency (EPA) and how lowering the allowed phosphorus levels would affect the county.

JP Allen stated that if the EPA gets the phosphorus level limits they desire, it would shut down the poultry industry in Arkansas, which would be devastating.

JP Allen made motion to forward the Illinois River Watershed discussion to the next Legislative Committee meeting, seconded by JP Carr.

County Judge Bob Clinard stated that at the Legislative Committee meeting that he would like the Northwest Arkansas Council to have more facts, numbers and the effects that EPA raising the phosphorus levels to the county.

Motion passed by unanimous voice vote.

COMMITTEE REPORTS:

JP Allen stated that the items on tonight's agenda were discussed at the Finance Committee and the Committee of Thirteen meetings, and forwarded to the Quorum Court agenda.

JP Douglas reported that the Legislative Committee met Thursday, September 8, 2011 and forwarded the Land Use and Development Plan to the Quorum Court agenda, and other items that were discussed have been added to the Legislative Packet.

JP Winscott reported that the Public Safety Committee met Tuesday, September 20, 2011, and forwarded an Emergency Medical Services study proposal for \$29,900 to the Tuesday, October 4, 2011 Finance Committee agenda.

County Judge Bob Clinard stated that the county has received the bids for nine road graders and those will be presented at the October 4, 2011 Finance Committee meeting.

PUBLIC COMMENTS:

Theresa Pockrus of Gentry expressed her opposition to the Land Use and Development Plan.

Bob Kossieck spoke against the Land Use and Development Plan.

James Gately spoke in support of the Land Use and Development Plan.

Larry Kelly of Rogers spoke in support of the Land Use and Development Plan.

PRESENTATION: Proposed Justice of the Peace Redistricting – Duane Neal

Redistricting Committee member Duane Neal stated that the committee is responsible for approve the redistricting of Justice of the Peace districts. He stated that the Election Commission had appointed John Brown, Robbyn Tumey, Jim McCarthy, and him to the committee. He added that the committee has met with the County Clerk's Office and the Northwest Arkansas Regional Planning Commission to work with them on the redistricting, and that the Election Commission would make the final decision on redistricting. Duane Neal listed some of the court-approved legal principles for redistricting which the committee took into consideration.

Jeff Hawkins presented the plan proposed by Northwest Arkansas Regional Planning. He stated that since Benton County's population has exceeded 200,000, it is now a Class 7 county, and that requires equal distribution of population among election districts, and that there will now be fifteen districts.

Dana Ferguson, Mapper/Researcher for the County Clerks Office, presented a power point presentation showing a potential map for redistricting and stated that there is a lot to consider in determining the equal distribution for the election districts.

County Judge Bob Clinard stated these proposed plans are for information purposes only and this is what the Election Commission is going to consider.

Duane Neal stated that the Redistricting Committee plans on submitting the proposed plans to the Election Commission by the first of October, and that there is no legal requirement to finish this portion of the redistricting process until the end of the year. He added that they would like to hopefully get it done by mid-October so that the County Clerk's office will have the time to make the adjustments that they will need to make, and notify the registered voters that they are in a new precinct if that is what is necessary.

County Judge Bob Clinard stated that the County Clerk's office will have both plans for the public to view.

Dana Ferguson stated that the redistricting maps available will also be available on the county web-site.

OLD BUSINESS:

None

JP Harrison made motion to suspend the rules and read all ordinances and resolutions by title only seconded by JP Carr.

There being no discussion, a roll call vote was recorded as follows:

12 yeas:	King, Winscott, J. Harrison, Allen, K. Harrison, Hawkins Jones, Douglas, Blaty, Curry, Carr, Moore
1 absent:	Sandlin

Motion passed.

NEW BUSINESS:

- (A) Proposed Resolution Authorizing the Application for a Grant and Acceptance of Funds Granted Through the Arkansas Economic Development Commission – Arkansas Energy Office – CNG Fueling Station Program; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed resolution by title only.

JP Allen made motion to adopt, seconded by JP J. Harrison.

There being no discussion, a roll call vote was recorded as follows:

12 yeas:	King, Winscott, J. Harrison, Allen, K. Harrison, Hawkins, Jones, Douglas, Blaty, Curry, Carr, Moore
1 absent:	Sandlin

Resolution duly adopted and assigned **No. R-2011-28.**

- (B) Proposed Resolution Approving a Land Use and Development Plan; Sponsor: JP Dan Douglas

County Attorney George Spence read the proposed resolution by title only.

JP Curry made motion to change the title of the proposed resolution approving a Land Use and Development Plan to be titled Land Use and Development “Guide”, seconded by JP Moore.

JP K. Harrison stated that he had a real problem with this document because it considers everything that is not agricultural or residential as conditional use property, and unless they provide more detail about what can be approved and what cannot, and not make everything conditional use, that he would not support this document.

JP Moore stated that Blue Book rules and regulations are still in force, this is simply a resolution, and all it would do is change the name of the Land Use & Development Plan to "Land Use & Development Guide".

Motion passed by unanimous voice vote.

JP Douglas stated this resolution request came through the Legislative Committee and the Committee of Thirteen, and it was forwarded on to the Quorum Court.

JP Douglas made motion to adopt the proposed resolution approving the Land Use and Development Guide, seconded by JP Allen.

JP Hawkins stated the guide lacks any legal force, and if there are changes that need to be made to the Blue Book, why are they being presented as a guide. He added that this is adding a nebulous, or cumbersome, or more redundant type position to a government function that he does not see as necessary. He stated that he sees this Land Use and Development Guide as an extra step which does not mean anything, and for that reason he opposes it.

JP Allen stated that this is simply going to be a policy guide for the Planning Board and the Quorum Court to look at when an amendment to the Blue Book is proposed. He stated that this particular document is not going to change anything, that it is well thought out, and that he will support of the Land Use and Development Guide.

JP Moore stated it has also been said that this is getting us on the slippery slope to zoning as it is enforced in cities, with areas being designated for certain uses. He added that the county does not work that way, and that the county needs to look at each development on its own merits and compatibility with the existing surrounding property, and that should be a part of the decision. He stated that he does not feel that zoning is the ultimate goal and that he is definitely not in favor of zoning.

JP Jones stated that he feels that the plan is misleading, and is, in fact, a step toward county zoning of property. He added that while he does not disagree with having a plan, he does disagree with this plan in a lot of areas, and that he cannot support it.

JP Douglas stated that this guide is controversial not just on the court but also with the public and that the public needs the opportunity to view and make comments. JP Douglas made motion to table the proposed resolution approving the Land Use and Development Guide for 30 days for public comment, seconded by JP Curry.

JP Allen stated this has been going on for over a decade, and questioned when the court is going to get down to business and vote it up or down.

JP Carr stated that the plan is pretty plain to him, that the plan has been worked on for 10 years, and tabling it for another 30 days is how things get mired down in red tape and keeps anything from happening in government. He added that he does not think that tabling the resolution request is a good thing, that he would like to see the resolution move forward. He stated that he does not support tabling the request.

Motion failed by show of hands vote to table the proposed resolution.

5 in favor:	K. Harrison, Hawkins, Douglas, Blaty, Curry
7 opposed:	King, Winscott, J. Harrison, Allen, Jones, Carr, Moore
1 absent:	Sandlin

JP K. Harrison stated that using this as a guide does not require this court to take any action. JP Moore added that this does not change the appeal process if someone does not like what the Planning Board does. He stated that a citizen still has the right to appeal to a board made up of Quorum Court members appointed by the County Judge.

JP Allen stated that this is a guide, and if it was going tight and very descriptive about what you could or could not do, then it would be an amendment to the Blue Book.

JP Winscott stated that this is not etched in stone; it is just a plan or “guide”. He added that this is an acceptance and recognition of what the committee has worked on for the last ten years. He stated the guide protects the property rights of individuals and gives direction to the Planning Board, and that he supports the guide.

JP King stated that this is the democratic way to do things and it’s just what it says it is, that you have the right to come to the meetings three different times, and voice your opinion, and with the due process of elimination that property owners can appeal three times against development near their property and that he was for the Land Use & Development guide.

JP Hawkins stated that there is the appeals process, regards of having this resolution. He added that there is a capability definition with in the Blue Book as it is now. He stated that he did not see where this resolution is needed.

JP Winscott called for the vote.

There being no further discussion, a roll call vote was recorded as follows:

7 yeas:	King, Winscott, J. Harrison, Allen, Douglas, Carr, Moore
5 nays:	K. Harrison, Hawkins, Jones, Blaty, Curry
1 absent:	Sandlin

Resolution duly adopted and assigned **No. R-2011-29.**

- (C) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2010-56 (2011 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 35, Capital Projects, Fund 440; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed appropriation ordinance by title only.

JP Allen made motion to adopt, seconded by JP Winscott.

There being no discussion, a roll call vote was recorded as follows:

12 yeas:	King, Winscott, J. Harrison, Allen, K. Harrison, Hawkins, Jones, Douglas, Blaty, Curry, Carr, Moore
1 absent:	Sandlin

Appropriation ordinance duly adopted and assigned **No. O-2011-45**.

OTHER BUSINESS

None

ANNOUNCEMENTS:

JP Allen announced that the Finance Committee will meet Tuesday, October 4, 2011 at 5:30 p.m.

There being no further business to come before the court, upon motion and second the meeting adjourned at 7:57 p.m.

Respectfully submitted,

Tena O'Brien,
County Clerk

Prepared by: Janet Reaves